

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FREDERICK NEWHALL WOODS,

Petitioner,

v.

ELVIN VALENZUELA, Warden,

Respondent.

No. C 14-1936 CW

ORDER DENYING
MOTION FOR
EVIDENTIARY
HEARING (Docket
No. 20); DENYING
MOTION FOR ORAL
ARGUMENT (Docket
No. 21); DENYING
PETITION FOR WRIT
OF HABEAS CORPUS
(Docket No. 1)

_____/

Petitioner Frederick Newhall Woods, a state prisoner, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In addition, Petitioner moves for an evidentiary hearing and oral argument on his petition. Petitioner claims he was denied parole by a parole hearing panel chaired by a commissioner with an undisclosed, disqualifying conflict of interest, in violation of his due process right to an impartial decisionmaker. Respondent Elvin Valenzuela opposes the petition. Petitioner filed a traverse. The matter was taken under submission on the papers. Having considered all of the papers submitted by the parties, the Court denies the petition.

BACKGROUND

In July 1976, Petitioner hijacked a school bus, kidnapping the driver and twenty-six children. Petitioner plead guilty to twenty-seven separate counts of kidnapping for ransom; he initially received concurrent sentences of life imprisonment without the possibility of parole on each count, but this was

1 modified on appeal to reflect a life sentence with the possibility
2 of parole.

3 Petitioner's most recent parole hearing was held on November
4 28, 2012, at the prison where he is in custody, the California
5 Men's Colony in San Luis Obispo, California. That hearing was
6 conducted by a two-person panel, with Jeffrey Ferguson as
7 presiding commissioner and D.H. McBean as deputy commissioner. A
8 representative from the Alameda County District Attorney's Office
9 appeared at the hearing to oppose Petitioner's parole. At the
10 conclusion of the hearing, the panel denied Petitioner parole.

11 At some time after the hearing, Mr. Ferguson took a position
12 as an investigator for the Alameda County District Attorney's
13 Office. Petitioner alleges that Mr. Ferguson made his application
14 for this position several months before Petitioner's parole
15 hearing, and argues that Mr. Ferguson's failure to recuse or at
16 least to disclose this potential conflict of interest denied him
17 his due process right to a hearing before an unbiased adjudicator.

18 In response to the Board's decision, Petitioner sought, but
19 was denied, relief on state collateral review.¹ This federal
20 habeas petition followed.

21 STANDARD OF REVIEW

22 A federal writ of habeas corpus may not be granted with
23 respect to any claim that was adjudicated on the merits in state
24 court unless the state's adjudication of the claims: "(1) resulted
25

26 ¹ His petition was denied by California Superior Court and
27 the California Court of Appeal; the California Supreme Court
28 denied his petition for review. In re Woods, 2014 Cal. LEXIS 2881
(2014).

1 in a decision that was contrary to, or involved an unreasonable
2 application of, clearly established Federal law, as determined by
3 the Supreme Court of the United States; or (2) resulted in a
4 decision that was based on an unreasonable determination of the
5 facts in light of the evidence presented in the State court
6 proceeding." 28 U.S.C. § 2254(d).

7 "Under the 'contrary to' clause, a federal habeas court may
8 grant the writ if the state court arrives at a conclusion opposite
9 to that reached by [the Supreme] Court on a question of law or if
10 the state court decides a case differently than [the Supreme]
11 Court has on a set of materially indistinguishable facts."
12 Williams v. Taylor, 529 U.S. 362, 412-13 (2000). "Under the
13 'unreasonable application' clause, a federal habeas court may
14 grant the writ if the state court identifies the correct governing
15 legal principle from [the Supreme] Court's decisions but
16 unreasonably applies that principle to the facts in the prisoner's
17 case." Id. at 413. The only definitive source of clearly
18 established federal law under 28 U.S.C. § 2254(d) is the holdings
19 of the Supreme Court as of the time of the relevant state court
20 decision. Id. at 412. Although only Supreme Court precedents are
21 binding on the state courts and only those holdings need to be
22 reasonably applied, circuit law may be persuasive authority in
23 analyzing whether a state court unreasonably applied Supreme Court
24 authority. Clark v. Murphy, 331 F.3d 1062, 1070-71 (9th Cir.
25 2003).

26 To determine whether the state court's decision is contrary
27 to, or involved an unreasonable application of, clearly
28 established law, a federal court looks to the decision of the

1 highest state court that addressed the merits of a petitioner's
2 claim in a reasoned decision. LaJoie v. Thompson, 217 F.3d 663,
3 669 n.7 (9th Cir. 2000).²

4 DISCUSSION

5 Here, Petitioner has not demonstrated even that there is
6 "clearly established Federal law, as determined by the Supreme
7 Court of the United States," much less that the state court's
8 reasoned opinion is contrary to or an unreasonable application of
9 such clearly established United States Supreme Court law.

10 The Due Process Clause establishes the right to an impartial
11 and disinterested tribunal. Withrow v. Larkin, 421 U.S. 35, 46
12 (1975). However, members of a tribunal are presumed to act with
13 honesty and integrity. Id. at 47; Stivers v. Pierce, 71 F.3d 732,
14 741 (9th Cir. 1995). To overcome this presumption, a petitioner
15 "must show that the adjudicator has prejudged, or reasonably
16 appears to have prejudged, an issue." Stivers, 71 F.3d at 741.

17 ² Petitioner argues that the California Court of Appeal did
18 not adjudicate the merits of his federal claim, and, therefore,
19 that this Court should consider his claim de novo. The Court is
not persuaded.

20 "When a state court rejects a federal claim without expressly
21 addressing that claim, a federal habeas court must presume that
22 the federal claim was adjudicated on the merits--but that
23 presumption can, in some circumstances, be rebutted." Johnson v.
24 Williams, 133 S. Ct. 1088, 1096 (2013). One circumstance under
25 which the presumption may be rebutted is where the state standard
26 provides less protection than the federal standard. Id.
27 Petitioner provides neither argument nor authority suggesting that
28 the standard under California law for determining whether an
inmate's due process right to an impartial adjudicator in a parole
hearing provides less protection than does federal law; in fact,
as set forth below, this Court finds that the standard applied by
the California court comports with federal law. As a result, this
Court finds no reason to reject the presumption that the
California court adjudicated Petitioner's federal claim, and,
therefore, no reason to conduct a de novo review.

1 First, there is no clearly established United States Supreme
2 Court precedent on this question, because the Court "ha[s] not
3 considered the question of whether a decision of a multimember
4 tribunal must be vacated because of the participation of one
5 member who had an interest in the outcome of the case." Aetna
6 Life Ins. Co. v. Lavoie, 475 U.S. 813, 827 (1986);³ Stivers, 71
7 F.3d at 746-47 ("Neither this court nor the Supreme Court has
8 addressed whether bias on the part of one member of a multi-person
9 tribunal violates due process, without any showing that that
10 member's bias affected the tribunal's decision."). Where, as
11 here, the question before the Court is one that the Supreme Court
12 expressly declined to answer, there is no clearly established
13 Supreme Court precedent. Meras v. Sisto, 676 F.3d 1184, 1188-90
14 (9th Cir. 2012).

15 Petitioner argues that the Supreme Court's more recent
16 decision in Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868
17 (2009), controls. Caperton concerned whether a state supreme
18 court justice must recuse when the circumstances of his election
19 call into question his ability to decide a particular case
20 impartially. Id. However, the Caperton court was presented with
21 a factual scenario it described as "extreme by any measure,"
22 resulting in "an extraordinary situation where the Constitution
23 requires recusal." Id. at 887. In light of those extraordinary
24 facts, Caperton merely applied the existing rule that "there are
25 objective standards that require recusal when 'the probability of
26

27 ³ In fact, in Lavoie the Court expressly declined to address
28 this question. 475 U.S. at 827 n.4.

1 actual bias on the part of the judge or decisionmaker is too high
 2 to be constitutionally tolerable.'" Id. at 872 (quoting Withrow,
 3 421 U.S. at 35). No such extraordinary facts exist in this case.

4 In addition, the decision of California Court of Appeal
 5 denying Petitioner's claim for habeas relief was neither contrary
 6 to, nor an unreasonable application of, federal law. The opinion
 7 of the California Court of Appeal reads, in its entirety:

8 Having reviewed the petition and accompanying
 9 exhibits, the Attorney General's informal
 10 response and petitioner's reply, we conclude the
 11 record discloses "some evidence" supporting the
 12 Board of Parole's determination that petitioner
 13 would "pose a danger to the public interest if
 14 released on parole. [Citations.]" (In re
 15 Shaputis (2011) 53 Cal. 4th 192, 214.)

16 We also reject petitioner's due process claim
 17 based on the allegation one of the two
 18 Commissioners who presided at the parole hearing
 19 did not disclose he had submitted an employment
 20 application to the District Attorney's Office
 21 with which the prosecuting attorney who appeared
 22 at the hearing and argued against the grant of
 23 parole is employed. A party claiming a parole
 24 hearing panel is not impartial must demonstrate
 25 "individualized prejudice"--i.e., show panel
 26 members "have specific prejudice . . . against
 27 the particular prisoner." (Hornung v. Superior
 28 Court (2000) 81 Cal. App. 4th 1095, 1100; see
also Cal. Code Regs., tit. 14, § 2250,
 subd. (a)(3) [disqualification of hearing panel
 member requires actual prejudice or bias "to the
 extent that [panel member] cannot make an
 objective decision"]; Southern Cal. Underground
Contractors, Inc. v. City of San Diego (2003) 108
 Cal. App. 4th 533, 549 ["a party claiming that
 the decision maker was biased must show actual
 bias, rather than the appearance of bias, to
 establish a fair hearing violation"].)

Petitioner has not made a prima facie showing of
 actual, specific prejudice against him.

The petition for writ of habeas corpus is denied.

1 In re Woods, No. A140539, slip op. (Feb. 6, 2014) (Docket No. 1-1,
2 at 438).

3 Petitioner argues that the state court erred by applying an
4 actual prejudice standard when Caperton does not require such a
5 showing. As noted above, the extraordinary factual circumstances
6 of Caperton are not present in this case. In addition, this Court
7 has previously held that "federal habeas relief is limited to
8 those instances where there is proof of actual bias, or of a
9 possible temptation so severe that one might presume an actual,
10 substantial incentive to be biased." Smart v. Harrington, 2011
11 U.S. Dist. LEXIS 116437, at *45 (N.D. Cal. 2011) (citing Del
12 Vecchio v. Illinois Dep't of Corr., 31 F.3d 1363, 1380 (7th Cir.
13 1994) (en banc)). The Court finds no such circumstances in the
14 present case.

15 "The Due Process Clause demarks only the outer boundaries of
16 judicial disqualifications." Lavoie, 475 U.S. at 828.
17 Petitioner's situation does not lie at the "outer boundaries," and
18 therefore, it does not implicate the Due Process Clause.

19 CONCLUSION

20 Petitioner's Motion for an Evidentiary Hearing (Docket No.
21 20) is denied as unnecessary. An evidentiary hearing is not
22 required unless Petitioner offers specific allegations that, if
23 proven, would demonstrate entitlement to relief. Smith v.
24 Mahoney, 611 F.3d 978, 998 (9th Cir. 2010). Petitioner offered no
25 such allegations here. Petitioner's Motion for Oral Argument
26 (Docket No. 21) is also denied as unnecessary.

27 For the foregoing reasons, the state court's adjudication of
28 Petitioner's claims did not result in a decision that was contrary

1 to, or involved an unreasonable application of, clearly
2 established federal law, nor did it result in a decision that was
3 based on an unreasonable determination of the facts in light of
4 the evidence presented in the state court proceeding.
5 Accordingly, the Court DENIES the Petition for Writ of Habeas
6 Corpus (Docket No. 1).

7 Further, a certificate of appealability is DENIED.
8 Reasonable jurists would not "find the district court's assessment
9 of the constitutional claims debatable or wrong." Slack v.
10 McDaniel, 529 U.S. 473, 484 (2000). Petitioner may seek a
11 certificate of appealability from the Ninth Circuit Court of
12 Appeals. The Clerk of the Court shall enter judgment in favor of
13 Respondent and close the file.

14
15 IT IS SO ORDERED.

16
17 Dated: February 19, 2015

18
19
20
21
22
23
24
25
26
27
28


CLAUDIA WILKEN
United States District Judge